



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON, D.C. 20370-5100

TRG

Docket No: 4047-00

16 November 2000

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED],
[REDACTED]

Ref: (a) Title 10 U.S.C. 1552

Encl: (1) DD Form 149 w/attachments
(2) Case Summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Navy filed enclosure (1) with this Board requesting that his reenlistment code be changed.

2. The Board, consisting of Mr. Dunn, Mr. Brezna and Ms. Madison, reviewed Petitioner's allegations of error and injustice on 7 November 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice, finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Although it appears that Petitioner's application was not filed in a timely manner, it is in the interest of justice to waive the statute of limitations and review the application on its merits.

c. Petitioner enlisted in the Naval Reserve on 23 July 1993 at age 19 and reported for two years of active duty on 4 August 1993. The record shows that he satisfactorily completed initial training and, on 3 December 1993, he reported to his first duty station. The discharge package is not filed in the record. However, the DD Form 214 shows that he was honorably discharged on 25 February 1994 by reason of hardship. At that time he was assigned an RE-4 reenlistment code.

d. Petitioner has submitted evidence showing that his mother was seriously injured in an automobile accident. He

states that since he was an only child and there was no one else to assist his mother, his application for a hardship discharge was granted.

e. The Board is aware that regulations allow for the assignment of an RE-3H or an RE-4 reenlistment code when an individual is discharged due to hardship.

CONCLUSION:

Upon review and consideration of all the evidence of record the Board concludes that Petitioner's request warrants favorable action. The Board is aware that although the circumstances which led to his hardship discharge are not filed in the service record, the discharge authority must have thought that the circumstances warranted such a discharge. Since there is nothing derogatory in the record, the Board concludes that the benefit of any doubt should be resolved in Petitioner's favor. Therefore, the record should be corrected to show that on 25 February 1994 he was assigned an RE-3H reenlistment code vice the RE-4 reenlistment code now of record. This code will alert recruiters that the hardship situation must have been resolved before an enlistment waiver can be authorized, but it will not preclude waiver consideration.

The Board further concludes that this Report of Proceeding should be filed in Petitioner's naval record so that all future reviewers will under the reason for the change in the reenlistment code.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that on 25 February 1994 he was assigned an RE-3H reenlistment code vice the RE-4 reenlistment code now of record.

b. That this Report of Proceedings be filed in Petitioner's naval record.

4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section

6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



For W. DEAN PFEIFFER
Executive Director